



JON M. HUNTSMAN, JR.  
Governor

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Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil Gas and Mining

JOHN R. BAZA  
Division Director

JK

February 3, 2008

CERTIFIED RETURN RECEIPT  
7005 2570 0000 4801 7857

Dave Shaver, Manager  
Genwal Resources, Inc.  
P.O. Box 1077  
Price, Utah 84501

Subject: Proposed Assessments for NOV#10016 and NOV #10017, Genwal Resources, Inc., Crandall Canyon Mine, C/015/0032, Outgoing File

Dear Mr. Shaver:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the Assessment Officer for assessing penalties under R645-401.

Enclosed are the proposed civil penalty assessments for the above referenced violations. The violations were issued by Division Inspector, Karl Houskeeper, on January 14, 2008. Rule R645-401-600 et. seq. has been utilized to formulate the proposed penalty. By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of these Notices of Violation has been considered in determining the facts surrounding the violation and the amount of penalty.

Under R645-401-700, there are two informal appeal options available to you:

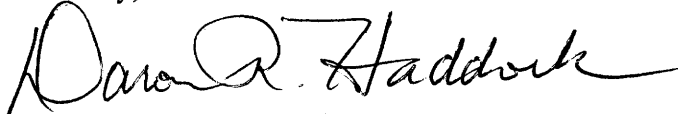
1. If you wish to informally appeal the fact of these violations, you should file a written request for an Informal Conference within thirty (30) days of receipt of this letter. This conference will be conducted by the Division Director, Associate Director or assigned conference officer. This Informal Conference is distinct from the Assessment Conference regarding the proposed penalty.
2. If you wish to review the proposed penalty assessment, you should file a written request for an Assessment Conference within thirty (30) days of receipt of this letter. If you are also requesting a review of the fact of violation, as noted in paragraph 1, the Assessment Conference will be scheduled immediately following that review.



Page 2  
Dave Shaver  
C0150032

**If a timely request for review is not made, the fact of violation will stand, the proposed penalty(ies) will become final, and the penalty(ies) will be due and payable within thirty (30) days of the proposed assessment.** Please remit payment to the Division, mail c/o Vickie Southwick.

Sincerely,

A handwritten signature in black ink, reading "Daron R. Haddock". The signature is fluid and cursive, with the first name "Daron" being more prominent and the last name "Haddock" following in a similar style.

Daron R. Haddock  
Assessment Officer

Enclosure

cc: OSM Compliance Report  
Vickie Southwick, DOGM  
Price Field Office

O:\015032.CRA\COMPLIANCE\ASSESMNT\PROASSESSMENT\_N10016.DOC

7005 2570 0000 4801 7857

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**OFFICIAL USE**

Postage

LETTER DATED 2/3/2008  
PROPOSED ASSESSMENTS NOV#10016

Certified Fee

AND NOV #1007

Return Receipt Fee  
(Endorsement Required)

C/015/032 CRANDALL CANYON

Here

Restricted Delivery Fee  
(Endorsement Required)

0008

Total Postage & Fees

\$

0050032

Sent To

DAVE SHAVER, MANAGER

*Delivering*

P.O. BOX 1077

PRICE, UTAH 84501

PS Form 3800, June 2002

See Reverse for Instructions

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
DIVISION OF OIL, GAS & MINING**

COMPANY / MINE Genwal Resources Inc. PERMIT C/015/032

NOV / CO # 10016

ASSESSMENT DATE February 4, 2008

ASSESSMENT OFFICER Daron R. Haddock

**I. HISTORY (Max. 25 pts.)**

- A. Are there previous violations, which are not pending or vacated, which fall one (1) year of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS
<u>NOV #10014</u>	<u>September 6, 2007</u>	<u>1</u>
<u>NOV #10015</u>	<u>September 17, 2008</u>	<u>1</u>

1 point for each past violation, up to one (1) year  
5 points for each past violation in a CO, up to one (1) year  
No pending notices shall be counted

**TOTAL HISTORY POINTS 2**

**II. SERIOUSNESS (Either A or B)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or HINDRANCE (B) violation? Event

A. EVENT VIOLATION (Max 45 pts.)

1. What is the event which the violated standard was designed to prevent?
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

<u>PROBABILITY</u>	<u>RANGE</u>
None	0
Unlikely	1-9
Likely	10-19
Occurred	20

### ASSIGN PROBABILITY OF OCCURRENCE POINTS 20

#### PROVIDE AN EXPLANATION OF POINTS:

\*\*\* Gravity discharge of mine water is occurring from the North Portals at the Crandall Canyon Mine. At the time of the inspection (and issuance of the NOV) water was being routed through surface diversions and into the sediment pond, which was rapidly filling and which was not designed to handle this water. Discharge from the pond eventually occurred and entered Crandall Creek. Gravity flow from the portals is not permitted and has the potential for water pollution. The surface diversions and sediment pond are not designed to handle this water. Using the surface diversions and pond for this water is unplanned for but actually occurred.

3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

### ASSIGN DAMAGE POINTS 10

#### PROVIDE AN EXPLANATION OF POINTS:

\*\*\* The inspector indicated that there was no damage at the time of the inspection, because all of the water was being contained to the site, however because the flow continued to fill the pond and it eventually spilled to Crandall Creek, some potential for damage is evident. This has since been documented by the sampling of the mine water coming from the sediment pond and mine water discharge point. Analysis of the water showed elevated levels of Zinc and Nickel and levels of Iron and TDS exceeded the UPDES discharge limits. It is difficult to determine the amount of damage that has occurred as a result of the discharge, but there is certainly potential for damage if this continues and is left unchanged. I am assessing 10 points because of the high potential for damage.

#### B. HINDRANCE VIOLATION (Max 25 pts.)

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

### ASSIGN HINDRANCE POINTS \_\_\_\_\_

#### PROVIDE AN EXPLANATION OF POINTS:

\*\*\*

TOTAL SERIOUSNESS POINTS ( A or B ) 30

III. NEGLIGENCE (Max 30 pts.)

- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

No Negligence	0
Negligence	1-15
Greater Degree of Fault	16-30

STATE DEGREE OF NEGLIGENCE Ordinary Negligence

ASSIGN NEGLIGENCE POINTS 7

PROVIDE AN EXPLANATION OF POINTS:

*\*\*\*The permittee is required to provide adequate water control for the site, which includes planning for mine water discharge. In this case, plans failed to identify the potential for mine water discharge and the mine began to discharge unexpectedly. A prudent operator would have had proper designs and would have anticipated the discharge and had it properly permitted so that the drainage for the site would function properly. Allowing the mine to discharge indicates some lack of diligence on the part of the permittee. This equates to ordinary negligence and points are assigned to the middle of the negligence range.*

IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

IF SO--EASY ABATEMENT

Easy Abatement Situation

- Immediate Compliance -11 to -20\*  
(Immediately following the issuance of the NOV)
- Rapid Compliance -1 to -10  
(Permittee used diligence to abate the violation)
- Normal Compliance 0  
(Operator complied within the abatement period required)  
(Operator complied with condition and/or terms of approved Mining and Reclamation Plan)

\*Assign in upper of lower half of range depending on abatement occurring the 1st or 2nd half of abatement period.

- B. Did the permittee not have the resources at hand to achieve compliance, or does the situation require the submission of plans prior to physical activity to achieve compliance?

IF SO--DIFFICULT ABATEMENT

Difficult Abatement Situation

- Rapid Compliance -11 to -20\*  
(Permittee used diligence to abate the violation)
- Normal Compliance -1 to -10\*  
(Operator complied within the abatement period required)
- Extended Compliance 0  
(Permittee took minimal actions for abatement to stay within the limits of the NOV or the violated standard of the plan submitted for abatement was incomplete)  
(Permittee complied with conditions and/or terms of approved Mining and Reclamation Plan)

EASY OR DIFFICULT ABATEMENT? difficult

ASSIGN GOOD FAITH POINTS -12

PROVIDE AN EXPLANATION OF POINTS:

*\*\*\*The operator took immediate steps to remedy the situation. The Operator notified the inspector immediately and started making plans to handle the water. Initially water was routed through surface diversions and into the sediment pond. This was only a temporary measure and ultimately sumps were created at each of the portals so that the water could be collected and routed into the permitted mine discharge pipe. All of the discharge water had been routed back into the authorized discharge structure by January 24, 2008 well ahead of the January 29<sup>th</sup> deadline. This showed diligence on the part of the Operator and points in the rapid compliance range are assigned.*

V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 10016

I.	TOTAL HISTORY POINTS	<u>2</u>
II.	TOTAL SERIOUSNESS POINTS	<u>30</u>
III.	TOTAL NEGLIGENCE POINTS	<u>7</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-12</u>
	TOTAL ASSESSED POINTS	<u>27</u>

TOTAL ASSESSED FINE \$ 770

**WORKSHEET FOR ASSESSMENT OF PENALTIES  
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3. What is the extent of actual or potential damage? RANGE 0-25

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**ASSIGN DAMAGE POINTS 10**

**PROVIDE AN EXPLANATION OF POINTS:**

\*\*\* The inspector indicated that there was no damage at the time of the inspection, because all of the water was being contained to the site, however because the flow continued to fill the pond and it eventually spilled to Crandall Creek, some potential for damage is evident. This has since been documented by the sampling of the mine water coming from the sediment pond and mine water discharge point. Analysis of the water showed elevated levels of Zinc and Nickel and levels of Iron and TDS exceeded the UPDES discharge limits. It is difficult to determine the amount of damage that has occurred as a result of the discharge, but there is certainly potential for damage if this continues and is left unchanged. I am assessing 10 points because of the high potential for damage.

B. HINDRANCE VIOLATION (Max 25 pts.)

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RANGE 0-25

Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS:**

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**TOTAL SERIOUSNESS POINTS ( A or B ) 30**

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- A. Was this an inadvertent violation which was unavoidable by the exercise of reasonable care? IF SO--NO NEGLIGENCE; or, was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care, or the failure to abate any violation due to the same? IF SO--GREATER DEGREE OF FAULT THAN NEGLIGENCE.

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Negligence	1-15
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STATE DEGREE OF NEGLIGENCE Ordinary Negligence

ASSIGN NEGLIGENCE POINTS 7

#### PROVIDE AN EXPLANATION OF POINTS:

*\*\*\*The permittee is required to provide adequate water control for the site, which includes planning for mine water discharge. In this case, proper evaluation of the accumulation of mine water and the potential for gravity flow from the portals was not accomplished before the mine power was shut off and the stoppings were built. The stoppings were not constructed as specified by the BLM. A prudent operator would have had proper designs and would have anticipated the discharge and had it properly permitted so that the drainage for the mine would function properly. Allowing the mine to discharge without proper plans indicates some lack of diligence on the part of the permittee. This equates to ordinary negligence and points are assigned to the middle of the negligence range.*

### IV. GOOD FAITH (Max 20 pts.)

(Either A or B)

(Does not apply to violations requiring no abatement measures)

- A. Did the operator have onsite, the resources necessary to achieve compliance of the violated standard within the permit area?

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V. ASSESSMENT SUMMARY

NOTICE OF VIOLATION # N 10017

I.	TOTAL HISTORY POINTS	<u>2</u>
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